

CIVIL RIGHTS COMMISSION[161]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 216.5, the Iowa Civil Rights Commission hereby gives Notice of Intended Action to amend Chapter 3, “Complaint Process,” Iowa Administrative Code.

These proposed amendments to rules 161—3.5(216) and 161—3.6(216):

- Distinguish different types of mail and clarify forms of filing by mail;
- Establish procedures for the E-filing of documents;
- Clarify an existing procedure relating to the costs for copying documents;
- Establish procedures for the filing of documents online via the case management system; and
- Bring the rules into conformance with 2009 statutory changes.

Any interested persons may make written comments on the proposed amendments on or before 4:30 p.m. on April 6, 2010. Written comments should be addressed to the Iowa Civil Rights Commission, Grimes State Office Building, Des Moines, Iowa 50319. Comments may also be submitted by fax to (515)242-5840 or by E-mail to ralph.rosenberg@iowa.gov.

A public hearing will be held in the Commission Office, First Floor South, Grimes State Office Building, East 14th and Grand Avenue, Des Moines, Iowa, from 2 to 4 p.m. on April 6, 2010. At this time, persons may present their views either orally or in writing. Persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Commission and advise of specific needs.

The proposed amendments are subject to the Commission’s general waiver provisions found at 161—Chapter 15.

These amendments are intended to implement Iowa Code section 216.5 and Iowa Code Supplement section 216.15.

The following amendments are proposed.

ITEM 1. Amend rule 161—3.5(216) as follows:

161—3.5(216) Filing of documents with the Iowa civil rights commission.

3.5(1) *Methods of filing.* Any document, including a complaint of discrimination, may be “filed” with the commission by any one of the following methods:

3.5(1) *a. In person.* By delivery in person to the offices of the commission at the location set forth in 161—paragraph 1.1(1)“b” during the office hours set forth in said paragraph “b.”

3.5(2) *b. By mail or regular mail.* By depositing the document in the United States mail, or sending it by courier service, postage prepaid, in an envelope addressed to the Iowa civil rights commission at the address set forth in 161—paragraph 1.1(1)“b.” In the case of state agencies or other persons served by the Iowa state government local (interoffice) mail, it is sufficient to deposit the document in Iowa state government local (interoffice) mail in an envelope designated “Local” and addressed to the “Iowa Civil Rights Commission.”

3.5(3) *c. By facsimile transmission (fax).* By transmitting via facsimile transmission a copy of the document to the fax number set forth in 161—paragraph 1.1(1)“b.”

A document filed by fax is presumed to be an accurate reproduction of the original. If a document filed by fax is illegible, a legible copy shall be substituted and the date of filing shall be the date the illegible copy was received.

3.5(4) d. *By courier service.* By delivering the document to an established courier service for immediate delivery to the Iowa civil rights commission at the address set forth in 161—paragraph 1.1(1)“b.”

e. By certified mail. By sending the document in the United States mail designated as certified mail.

f. By local mail. By depositing the document in Iowa state government local (interoffice) mail in an envelope designated “Local” and addressed to the “Iowa Civil Rights Commission.”

g. By case management system. By submitting a document online via the case management system. The documents which may be filed online via the case management system are set at the discretion of the commission. Complainants and respondents filing paper documents may, when authorized by the commission, use electronic filing for those documents the commission permits to be submitted online through the case management system.

h. By E-mail. By attaching a document to or sending a document within the body of an E-mail. The commission shall have discretion over which documents may be filed by E-mail. Official signature requirements may vary from one type of document to another and shall be determined at the discretion of the commission. The commission may establish procedures to ensure the accuracy and validity of online filings and to notify parties of the receipt of electronic filings. Filings by E-mail must be delivered to a valid E-mail address of current commission staff designated to accept filed documents. The commission may require additional written verification of the veracity and accuracy of documents filed online. Senders shall include in the subject line of the E-mail the case number, if one exists, and a brief description of the submission.

3.5(5) 3.5(2) *Suggested procedures for facsimile transmissions (fax).* In order to avoid an incomplete or illegible fax, it is suggested that those desiring to “file” a document via that method follow these procedures:

a. to d. No change.

3.5(6) 3.5(3) *Charge for facsimile transmissions in excess of five pages.* For facsimile transmissions in excess of five pages, the commission ~~will~~ may bill the sender a reasonable fee for each page in excess of five pages.

3.5(7) 3.5(4) *Date a document is deemed to be “filed” with the commission.* The date on which any document is deemed to be “filed” with the commission is determined according to the following:

a. Filing in person. If the document, including a complaint of discrimination, is filed in person as set forth in ~~subrule 3.5(1)~~, paragraph 3.5(1)“a,” then the date of the filing is the date that the document is delivered to the commission offices and date-stamped received.

b. Filing by mail or regular mail. If the document, except for a complaint of discrimination, is filed by mail or regular mail as set forth in ~~subrule 3.5(2)~~, paragraph 3.5(1)“b,” then the date of the filing is the date of mailing.

c. Filing by facsimile transmission. If the document, including a complaint of discrimination, is filed by facsimile transmission as set forth in ~~subrule 3.5(3)~~, paragraph 3.5(1)“c,” the date of the filing is the date the document is received by the commission as shown on the face of the facsimile. However, if a transmission is received after the office hours set forth in 161—paragraph 1.1(1)“b,” the date of filing is the next day the commission offices are open for business. Transmissions received prior to office hours on a regular business day are deemed filed on that day.

d. Filing by courier service. If the document, except for a complaint of discrimination, is filed by courier service as set forth in ~~subrule 3.5(4)~~, paragraph 3.5(1)“d,” then the date of the filing is the date the document is delivered to the established courier service for immediate delivery to the Iowa civil rights commission at the address set forth in 161—paragraph 1.1(1)“b.”

e. Filing online via case management system. If a document, including a complaint of discrimination, is filed online via the case management system as set forth in paragraph 3.5(1)“g,” the date of the filing is the date that document is received by the commission as recorded in the case management system. However, if the submission is received after the office hours set forth in 161—paragraph 1.1(1)“b,” the date of filing is the next day the commission offices are open for

business. A submission received prior to office hours on a regular business day is deemed filed on that day.

f. Filing online through E-mail. If a document, including a complaint of discrimination, is filed online via E-mail, as set forth in paragraph 3.5(1)“h,” the date of the filing is the date that document is received by the commission as recorded in the E-mail inbox of the commission staff person. However, if the submission is received after the office hours set forth in 161—paragraph 1.1(1)“b,” the date of filing is the next day the commission offices are open for business. A submission received prior to office hours on a regular business day is deemed filed on that day.

e. g. Presence of commission receipt stamp. Except where the date of the receipt stamp is demonstrated to be in error, the date of filing of a document, including a complaint of discrimination, shall in no event be deemed to be later than the date shown by the dated commission receipt stamp on the document. Complaints filed online via the case management system shall receive an online record of the date and time filed, and the online record shall be considered the dated commission receipt stamp.

~~3.5(8)~~ **3.5(5)** *Proof of mailing.* Adequate proof of the date of mailing includes the following:

a. to f. No change.

~~3.5(9)~~ **3.5(6)** *Conflict among proofs of mailing.* The date of mailing is the date shown by the postmark. In the absence of a legible postmark, the date of mailing is the date shown by the postage meter mark, and only in the absence of both a legible postmark and a legible postage meter mark, the date of mailing is the date shown by the affidavit, certificate, or certification of mailing.

~~3.5(10)~~ **3.5(7)** *Filing of complaint.*

a. A complaint of discrimination is filed by any of the methods listed in this rule.

b. The date a complaint of discrimination is filed with the commission is the date the complaint is received by the commission. However, if the complaint is filed by fax or online via the case management system or E-mail and is received after the office hours set forth in 161—paragraph 1.1(1)“b,” the date of filing is the next day the commission offices are open for business. Transmissions or submissions or other online filings received prior to office hours on a regular business day of the commission are deemed filed on that day.

c. Except where the date of the receipt stamp is demonstrated to be in error, the date of filing of a complaint of discrimination shall in no event be deemed to be later than the date shown by the dated commission receipt stamp on the complaint. Complaints filed online via the case management system shall receive an online record of the date and time filed, which shall be considered the dated commission receipt stamp.

ITEM 2. Amend rule 161—3.6(216) as follows:

161—3.6(216) Notice of the complaint. After jurisdictional review and within 20 days of receipt of the complaint, ~~the executive director or designee shall serve the first named respondent with a copy of the complaint by certified mail.~~ the commission will serve a complaint on a respondent by regular or electronic mail. If the first named respondent does not respond to the service by regular or electronic mail after 90 days, the commission shall serve the complaint on the first named respondent by certified mail within 20 days after the expiration of the 90-day response period. ~~If the first named respondent on a complaint is not a governmental entity, service of a true copy on the first named respondent shall be by certified mail.~~ A letter of acknowledgment shall advise the complainant of the right to withdraw the complaint and sue in the appropriate district court according to Iowa Code section 216.16.